REMARKS

I. INTRODUCTION

Claims 10 and 19 have been cancelled. Claims 1-2, 7-8, 11-12 and 16-17 have been amended to more particularly point out and distinctly claim that which is the subject matter of the invention. Thus, claims 1-9 and 11-18 remain pending in the present application. No new matter has been added. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

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II.   THE REJECTIONS UNDER 35 U.S.C. § 102 SHOULD BE WITHDRAWN

The Examiner has rejected claims 1, 6 and 9 as being anticipated by the public use of a person sitting at a desk and adding two numbers, or, alternatively, creating a playlist of songs on a computer. (See 6/15/04 Office Action, ¶ 1, page 2). With respect to the adding of two numbers, applicants have previously amended claim 1 to clarify the inventive method, such that the inventive method is executed on a computing device and that the extraction of elements is from software code.

With respect to the playlist, it appears the Examiner is equating an original playlist to the first software code. Claim 1 recites "the first code having a predefined command structure." The specification gives several examples of a command structure, such as an XML language format. (Specification, page 26, ¶ [0043]). A playlist is just that, a list. There is no structure to a list. A playlist is merely a listing of songs without any defined structure. Thus, applicants respectfully submit that the claims 1, 6 and 9 are not anticipated by the public use asserted by the Examiner and that the rejection should be withdrawn.

The Examiner has rejected claims 1-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,966,536 to Ravichandran ("the Ravichandran reference"). (See Office Action, ¶ 2, pages 2-5).

The Ravichandran reference discloses a method and apparatus for transforming a source executable code optimized for a source processor into target executable code optimized for execution on a target processor. (See the Ravichandran reference, Abstract). A computer network 100 is described that includes a server 102. (See the Ravichandran reference, col. 4, lines 9-14). The server 102 includes a network interface 112, a target processor 114, a primary storage 116, a secondary storage 118 and an I/O interface 120 "which facilitates communication between these aforementioned elements." (See the Ravichandran reference, col. 4, lines 22-25). The target processor 114 "fetches computer instructions from primary storage 116 through I/O

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interface 120." (See the Ravichandran reference, col. 5, lines 29-31). The method is described as accepting initial target executables and collecting execution performance information for each block of code. (See the Ravichandran reference, col. 5, lines 16-27). The source executable is also accepted, converted into a functionally equivalent source executable capable of execution on the target processor and execution performance information is collected. (See the Ravichandran reference, col. 5, lines 28-61). It is then determined if the functionally equivalent source executable executes faster than the target executable. (See the Ravichandran reference, col. 5, line 62 - col. 6, line 6). If it is, the functionally equivalent source executable is used to optimize the target executable. (See the Ravichandran reference, col. 6, lines 12-24). The server and the workstation then enable the negotiated protocols. (See the Ravichandran reference, col. 9, lines 61-65). The method then generates an optimization metric for the functionally equivalent source executable and the target executable and uses this information to determine which blocks should be combined to generate a new optimized target executable. (See the Ravichandran reference, col. 6, line 25- col. 7, line 36).

As amended, claim 1 of the present invention recites a method executed on a computing device to perform an operation on extracted elements of a first software code comprising the steps of "generating a list of desired elements of the first software code, the first code having a predefined command structure, *the predefined command-structure being displayed via a graphical user interface*" and "extracting the desired elements from the first code" in combination with "performing an operation on the extracted elements."

Initially, it should be noted that the amendment made to claim 1 simply incorporated the limitations of dependent claim 10, and, as such, should not require a new search by the Examiner. The Examiner has rejected claim 10 by stating that the limitations described therein are "considered inherent via the information cited in the rejections of claims 7-9 above." (See 6/15/04 Office Action, ¶ 2, page 5). The rejections of claims 7-9 cite the rejection of claim 2, which also includes claim language directed to a graphical user interface. In the rejection of claim 2, the Examiner equates the I/O interface described in the Ravichandran reference with the

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graphical user interface (GUI) as recited in claim 1 of the present application. The Ravichandran reference states that the I/O interface 120 "facilitates communication between" the "a network interface 112, a target processor 114, a primary storage 118, [and] a secondary storage 118." (See the Ravichandran reference, col. 4, lines 22-31). In contrast, the GUI is a program interface which takes advantage of a computer's graphics capabilities to make the program easier to use. As would be understood by those skilled in the art, the GUI, as recited in claim 1, is not anticipated by or obvious in view of the Ravichandran reference's disclosure of the I/O interface 120, which simply facilitates communication between processors. The I/O interface of the Ravichandran reference is not presented graphically to the user. As such, the Ravichandran reference does not disclose or suggest that "the predefined command structure [is] displayed via a graphical user interface," as recited in claim 1. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claim 1. Because claims 2-9 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are allowable for the same reasons as stated above.

The Examiner rejected independent claim 11 in view of the rejections of claims 1-4. Claim 11 has been amended to include the limitations of dependent claim 19, and, therefore, should not require a new search by the Examiner. As amended, claim 11 recites limitations substantially similar limitations to those in amended claim 1, including "a first engine receiving a list of desired elements of a first software code, the first code having a predefined command structure, *the predefined command structure being displayed via a graphical user interface.*" Therefore, Applicants respectfully submit that claim 11 is allowable for at least the reasons discussed above with regard to claim 1. Because claims 12-18 depend from, and therefore include all the limitations of claim 11, it is respectfully submitted that these claims are allowable for the same reasons as stated above.

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III. CONCLUSION

In view of the amendments and remarks submitted above, the Applicants respectfully submit that the present case is in condition for allowance. All issues raised by the Examiner have been addressed, and a favorable action on the merits is thus earnestly requested.

Respectfully submitted,

Dated: 10/13/04   By: _____

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